

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14371 of the Palisades Community Church, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 3101.41 to use part of the subject premises as a child development center for 55 children, ages three months to four years and twelve staff and a variance from the prohibition against a driveway serving more than one parking space and designed for two-way circulation measuring less than fourteen feet in width (Paragraph 7206.732) in an R-1-B District at premises 5200 Cathedral Avenue, N.W., (Square 1440, Lot 882).

HEARING DATE: December 18, 1985

DECISION DATE: January 8, 1986

FINDINGS OF FACT:

1. The subject site, known as premises 5200 Cathedral Avenue, N.W., is located on the south side of Cathedral Avenue at its intersection with Hawthorne Place. It is in an R-1-B District.
2. The subject site is generally triangular in shape. It is improved with two brick buildings housing the Palisades Community Church. The east building is three stories high and is connected to the two story sanctuary building to the west by an addition housing the kitchen, parlor and offices.
3. The R-1-B District extends to the north, east and south of the subject site. These areas are developed with single family detached dwellings. To the west of the site, a gasoline station and townhouses, and single family detached dwellings are located in a C-1 and R-3 Districts respectively.
4. Pursuant to Sub-section 8207.2 of the Zoning Regulations, the applicant is seeking a special exception under Paragraph 3101.41 to use part of the subject premises as a child development center for 55 children, ages three months to four years and twelve staff.
5. Sub-section 8207.2 states in pertinent part that the Board is authorized to grant special exceptions where in the judgement of the Board such special exceptions will be in harmony with the general purpose and intent of the zoning regulations and maps and will not tend to affect adversely

the use of neighboring property in accordance with said zoning regulations and maps.

6. Paragraph 3101.41 provides that the Board may approve the requested relief in accordance with the following requirements:

- A. The center shall be capable of meeting all applicable code and licensing requirements.
- B. The center shall be so located and designed as to create no objectionable traffic condition and no unsafe condition for picking-up and dropping-off children.
- C. The center shall provide sufficient off-street parking spaces to meet the reasonable needs of teachers, other employees and visitors.
- D. The center, including any outdoor play space provided, is so located and designed that there will be no objectionable impacts on adjacent or nearby properties due to noise, activity, visual or other objectionable conditions. The Board may require such special treatment in the way of design, screening of buildings, planting and parking areas, signs or other requirements as it shall deem necessary to protect adjacent and nearby properties.
- E. Any off-site play area shall be located so as not to result in endangerment to the individuals in attendance at the center in traveling between the play area and the center itself.
- F. The Board may approve more than one child development center in a square or within 1,000 feet of another child development center only when the Board finds that the cumulative effect of these facilities will not have an adverse impact on the neighborhood due to traffic, noise, operations or other similar factors.
- G. Before taking final action on an application, the Board shall submit the application to the Departments of Consumer and Regulatory Affairs (DCRA) and Public Works and the Office of Planning for review and written reports. The referral to the DCRA shall request advice as to whether the proposed center can meet all licensing requirements set forth in the applicable laws of the District of Columbia.

7. The Church proposes to use space in the Educational Wing of the Church for the Child Development Center for children ranging in age from three months to four years.

8. The proposed program will have two departments: a) a pre-school/parent's day out program to be administered by the Palisades Community Church for which the hours of operation would be 8:00 A.M. to 2:00 P.M., Monday through Friday, September through May, and b) an early intervention program for handicapped infants and toddlers to be administered by the St. John's Development Center. The hours of operation for this program would be 8:00 A.M. to 5:00 P.M. Monday through Friday, with 231 program days per year.

9. The Zoning Administrator informed the applicant that the subject application encompasses only one Child Development Center and that if the Palisades Community Church and St. John's Child Development Center administer separate programs, two certificates of occupancy are necessary.

10. Although the center will initially accommodate a smaller number of students, the applicant requests permission to accommodate 55 children to provide for expansion of the program.

11. The Palisades pre-school program will employ seven certified child care professionals. The full-time on site staff for the St. Johns' program will include approximately one teacher and two aides. Part-time consultants, who will conduct occasional site visits will include: related service therapists, a medical director, program director, nurse and psychologist. The program is designed to provide early intervention/habilitation for young unserved handicapped children. There will be a maximum total of 12 staff on the site.

12. On the ground floor two rooms, measuring 608 square feet and 214 square feet, will be used as pre-school classrooms.

13. On the first floor two rooms, measuring 608 square feet and 155 square feet, will be used as pre-school handicapped classrooms.

14. Additional rooms will be available as the center expands.

15. The center will comply with all applicable code and licensing requirements.

16. The property has 185 feet of curb frontage on Cathedral Avenue and 150 feet of frontage on Hawthorne Place. There is room to parallel park approximately 14 cars along the site's curb frontage. Street frontage on Cathedral Avenue will be designated as a 15 minute parking zone during

school hours. The area is not impacted by a heavy demand for curb parking. The majority of the dwellings in the area have on-site parking.

17. Children will arrive at and depart from the subject Center by private cars, cabs or vans. Arrival and pick-up times will be staggered to minimize traffic congestion. Staff will meet children at the curb and escort them to the classrooms.

18. The Zoning Regulations require that one off-street parking space be provide for every four teachers and other employees. Therefore, three spaces are requested to be provided on-site. The applicant's plans show three 9 feet by 19 feet parking spaces along the site's western lot line. These spaces will be accessible from Cathedral Avenue by a driveway.

19. A survey made by a representative of the applicant indicated that only 21 percent of the on-street parking spaces in the immediate area of the subject site were occupied when the center began operating in the mornings.

20. The center would not generate as much parking demand as other church events including services, college classes, board and committee meetings, weddings and bazaars. The church has received no complaints about parking problems generated by these activities.

21. Other church activities occur during evenings or weekends and do not overlap with the child development center schedule.

22. A play yard will be located down a slope at the rear or south of the Educational wing. It will have a sandbox plus a wooden climbing structure with slides of a size appropriate for pre-school age children. The play yard may be used by neighborhood children after school hours and on weekends.

23. The play area will not be visible from Cathedral Avenue or Hawthorne Place. Noise generated by the use of the area will be buffered by trees and fences located between the area and adjacent sites.

24. There is a single family dwelling which abuts the site just opposite the proposed play area. This dwelling is sited at a higher elevation than the rear yard of the church where the play area is located. The applicant plans to limit the number of children using the play area to small, teacher supervised groups. By using this system, the noise impacts from the children playing should be further substantially reduced.

25. All of the center's play activities will be conducted on-site.

26. There are no other child development centers in the same Square or within 1,000 feet of the proposed child development center.

27. In addition to seeking a special exception, the applicant is also seeking an area variance, pursuant to Paragraph 8207.11 of the Zoning Regulations, from the prohibition against having a driveway which serves more than one parking space and is designed for two-way circulation measuring less than fourteen feet in width (Paragraph 7206.732).

28. Paragraph 8207.11 empowers the Board to grant an area variance where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under the Act would result in peculiar and exceptional practical difficulties to the owner of such property provided such relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the zoning regulations and map.

29. There is presently a 9.6 to 12 foot wide concrete and asphalt driveway on the site. This driveway runs along the western property line from the western corner of the site at Cathedral Avenue south to the rear of the church building.

30. The driveway will lead to the three proposed parking spaces which will be on its east side near the church. The parking spaces and turn around area will be paved. The area adjacent to the parking is level and grassy.

31. The driveway has served the church for 62 years providing parking for deliveries and access to the church social hall for the elderly and handicapped.

32. The driveway is used as the access to the garage of one neighbor whose property is located west of the subject site at the extreme end of the driveway.

33. The driveway is not used by residents of the row houses on the lots adjacent to the church property. These lots front on and have access to their driveways from MacArthur Boulevard.

34. The portion of the subject driveway which serves as an outlet to Cathedral Avenue belongs to the owner of the neighboring property. The church has a legal agreement to use that portion of the driveway until it is redeveloped or sold.

35. The cost of widening the driveway to fourteen feet and providing an apron at the curb would be prohibitive for the church and child development center which are both non-profit organizations.

36. By memorandum dated December 11, 1986 the Office of Planning (OP) recommended the conditional approval of the subject application. The OP reported that the proposed child development center can meet the special exception criteria without adversely impacting the surrounding properties and street system provided that minor site plan and program modifications are made. As to the variance request from the driveway design requirements OP sympathizes with the financial burden that strict compliance with the Regulations would entail, however, it is of the opinion that there are less costly means of reasonably meeting the intent of these provisions. The OP recommended that the applicant's site plan should show the location of the play area in the rear of the site as far away from the property lines as possible. The type of fencing proposed to enclose the play area should also be specified on the plans.

37. The OP further reported that it is not opposed to the existing driveway's width and paving condition, though design wise it is technically inadequate. Not including the driveway curb cut and apron, OP suggested that in lieu of asphalt paving or concrete being used in the area of the three new parking spaces that rolled, gravel at a sufficient depth be used. This paving medium when bordered with timbers and maintained will provide a less expensive means of installing a parking lot. The OP testified at the public hearing that the center would not require more than three parking spaces to be provided on site. The OP further testified that there are unusual situations relating to the property's configurations and driveway easement history that support a finding of practical difficulty to support the requested variance. On its inspection of the subject site the OP found the curb cut and apron where the driveway enters Cathedral Avenue to be functional. The Board concurs with the reasoning and recommendation of the OP.

38. By memorandum dated December 10, 1985, the Department of Public Works (DPW) reported as to the transportation system at or near the subject site. The site is bordered on the north by Cathedral Avenue, on the west by MacArthur Boulevard and on the east by Hawthorne Place. Cathedral Avenue is a 30 foot-wide local street with minimal traffic. Parking is allowed at all times. MacArthur Boulevard is a

60 foot-wide divided minor arterial with an ADT of 19,600 vehicles. Parking is allowed at all times. Hawthorne Place is a 30 foot-wide local street with minimal traffic. Parking is allowed at all times. Four Metrobus routes operate on MacArthur Boulevard approximately one block west of the site. However, the site is located in a low level transit zone. The Metropolitan Washington Council of Governments projected 1990 transit modal split for home based work trips is approximately 25 percent. Therefore, approximately 3 of the 12 employees could be expected to utilize transit. The DPW did not expect that transit use would be a significant factor at the site, due to its remote location.

39. The DPW further reported that the site is located on a quiet residential street, however it is abutted on one side (the western perimeter) by an Exxon Gasoline Service Station located in a C-1 zone. Access to the proposed parking spaces is insufficient due to the unusual elevation of the driveway entrance which is located within the public space. In addition, a small triangular portion of the driveway is owned by the Exxon service station. The church has indicated that the service station is reluctant to sell or transfer this area to the church but is providing verbal permission for the church to cross this area. A group of rowhouses also located west of the church and slightly south of the Exxon service station also use the driveway. The church owns all of the driveway except that part which is owned by the Exxon Service Station and that which is with in public space. The Department reported several concerns regarding the design and use of the driveway and the number of parking spaces proposed. The driveway is inadequate in width and does not provide for safe access from the street and circulation of cars back to Cathedral Avenue.

The church does not have complete control over its right-of-way access to the parking spaces, since the Exxon Station owns a portion of it and has made no legally binding commitment to the church for its use. The church has a considerable demand for the use of the driveway. Other weekday functions and activities are held at the church and the child development center would increase the use intensity. The use of the driveway by the adjacent townhouses further reduces its availability and design options by the church. The number of parking spaces proposed is insufficient to accommodate the proposed child development center. With 12 staff members there is a need for a minimum of six parking spaces. The continued reliance upon on-street parking for the present and future needs of the church is unacceptable to DPW. The DPW made the following recommendations:

- a. That the applicant provide, at a minimum, six parking spaces and that a turn-around or L shaped

area be paved within church property to allow for vehicles to enter and leave the driveway safely.

- b. The driveway entrance should be leveled at the applicant's expense to provide a smooth transition for vehicles entering and leaving the driveway.
- c. The applicant should work out a binding agreement with the Exxon Gasoline Station for the use of the driveway portion which it owns.
- d. Additionally, some other arrangement should be explored for the use of the driveway by the adjacent rowhouses which currently park within the driveway itself.

The applicant should provide a detailed site plan and parking layout demonstrating the recommended design standards. The design standards must meet the approval of DPW.

40. The Board does not concur with the reasoning or recommendations of the DPW. The Board finds that since the filing of the DPW report the applicant has obtained a written legal agreement from the adjacent property owner to use a portion of his land as the driveway entrance. The Board further notes that residents of the townhouses on MacArthur Boulevard do not use the church driveway for access to their property. Church functions and child development functions do not overlap so three parking spaces and the existing driveway are adequate to accommodate parking needs for the center. Further, there is sufficient on-street parking on neighborhood streets to meet parking demands which may result.

41. Advisory Neighborhood Commission 3D filed no recommendation on the subject application.

42. Numerous letters were submitted to the record in support of the subject application from neighbors of the proposed site. The neighbors, including those living adjacent to and directly across from the site, supported the proposed center on the grounds that it would provide a needed service and make the area more livable for families with small children. They further stated that the center would not adversely affect traffic or parking in the area as there is ample on-street parking during the day. The Board concurs.

43. One letter from a neighbor of the subject site was submitted to the record in opposition to the application on the grounds that the area is saturated with institutions and parking generated by the center will be a problem. The Board finds this singular allegation contrary to the evidence of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception the granting of which requires that the proposal meet the requirements of Paragraph 3101.41 and that the relief requested can be granted as in harmony with the general purpose and intent of the Zoning Regulations and the relief will not tend to affect adversely the use of neighboring property.

The Board concludes that the applicant has met its burden of proof. The proposed use, as conditioned below in the grant of this application, is not likely to become objectionable to neighboring property because of noise, traffic, number of students or other objectionable conditions. The use will not will have an adverse affect on the use of neighboring property.

The Board further concludes that the applicant is seeking an area variance, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the application will not be of substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan. The Board concludes that the applicant has met the burden of proof. The practical difficulty results from the property's configuration and existing driveway although it is adequate to serve the proposed center.

The Board further concludes that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

- a. Approval shall be limited to the Palisades Community Church and St. John's Child Development Center. One or more licenses and certificates of occupancy may be obtained if such is determined to be not otherwise inconsistent with the administrative practices of the appropriate government agencies.
- b. The number of children at the facility shall not exceed fifty-five.
- c. The number of staff at the facility shall not exceed twelve.
- d. The hours of operation shall not exceed from 8:00 A.M. to 5:30 P.M. Monday through Friday.

- e. In the event that access to the required parking spaces, by means of a driveway located, in part, on adjacent property, is denied for any reason, the applicant shall promptly provide alternate access from the street to such parking spaces on its property.
- f. A minimum of three parking spaces shall be designated for the exclusive use of the child development center during its operation.

VOTE: 3-0 (William F. McIntosh, Charles R. Norris to grant; Lindsley Williams to grant by proxy; Carrie L. Thornhill not voting, not having heard the case; Douglas J. Patton not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Cecil B. Tucker by BJR
CECIL B. TUCKER
Acting Executive Director

09 MAY 1986

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FINAL DATE OF ORDER: _____

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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